FILE COPY

Office - Supreme Court
FILED
MAY 22 195
CHARLES ELMORE CR
O

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

E. R. MOODY, Owner, Ferry Barge "Martha Ruth Moody,"

Petitioner,

vs.

LEONARD EDMONSTON, Administrator of the Estates of Charlie W. Vaughn, Charles H. Vaughn, Albert B. Vaughn and Norris H. Vaughn,

Respondent.

No. 793

ANSWER OF RESPONDENT TO PETITION FOR CERTIORARI

Hillsman Taylor
Memphis, Tenn.
Jones Greer
Dyersburg, Tenn.
Robert E. Joyner
Memphis, Tenn.
Sam Costen
Counsel for Respondent

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

E. R. MOODY, Owner, Ferry Barge "Martha Ruth Moody,"

Petitioner,

vs.

LEONARD EDMONSTON, Administrator of the Estates of Charlie W. Vaughn, Charles H. Vaughn, Albert B. Vaughn and Norris H. Vaughn,

Respondent.

No. 793

ANSWER OF RESPONDENT TO

PETITION FOR CERTIORARI

TO THE HONORABLES THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

I.

The petition presents no matter of law or fact that was not exhaustively considered and extensively determined by the District Court, with the concurrence of the Circuit Court of Appeals. (R. V. I, pp. 24-28; R. V. II, pp. 219, 229).

II.

The questions presented by the petition are questions of fact (Petition pp. 7-8), that of contributory negligence constituting the bulk of the petition. Moreover, the District Court and the Circuit Court of Appeals, affirming and denying petition to rehear, have made concurrent findings that there was no contributory negligence on the part of any of the deceased persons. Both courts have held that the ferry was unseaworthy and that petitioner had knowledge of this unseaworthiness. (R. V. I, pp. 24-28; R. V. II, pp. 219, 229).

III.

The discretion of this Court to grant the Writ of Certiorari is rarely motivated by a prayer for mere review of evidence or discussion of facts, where both Courts below have concurred.

UNITED STATES vs. Johnston,

45 S. Ct. 496,
268 U. S. 220,
69 L. Ed. 925.

This rule applies with added force in admiralty cases.

MANHICK vs. SOUTHERN S.S. CO.,

64 S. Ct. 455,
321 U. S. 96,
88 L. Ed. 561.

WHEREFORE, respondent prays that the Petition for Certiorari be denied.

Respectfully submitted,
Hillsman Taylor, Memphis, Tenn.
Jones Greer, Dyersburg, Tenn.
Robert E. Joyner, Memphis, Tenn.

Counsel for Respondent